



HOUSE BILL 433: Land Use Surrounding Military Installations

2013-2014 General Assembly

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| Committee: | Senate Judiciary I, Then Sequential Referral To Senate Rules and Operations | Date: | May 9, 2013 |
| Introduced by: | Reps. J. Bell, Stam, McElraft, Whitmire | Prepared by: | Jennifer Mundt |
| Analysis of: | PCS to Fourth Edition H433-CSTA-10 | | Legislative Analyst |

SUMMARY: *House Bill 433 would prohibit the construction of tall buildings or structures within a five-mile area surrounding a military installation without first receiving an endorsement from the State Construction Office of the Department of Administration.*

The PCS amends the 4th Edition of the bill to:

- *Return the endorsement authority to the Building Code Council (was the State Construction Office of the Department of Administration) and make conforming statutory changes.*
- *Provide that the Council may meet by telephone, video, or Internet conference in order to make a decision on a request for an endorsement.*
- *Reinstate the Commissioner of Insurance's enforcement and penalties for violations under the Article.*

[As introduced, this bill was identical to S389, as introduced by Sen. Brown, which is currently in Senate Commerce.]

BILL ANALYSIS: House Bill 433 establishes a new Article in Chapter 143 of the General Statutes: The Military Lands Protection Act of 2013. The bill provides definitions for terms used in the Article, including "Major military installation" and "Tall buildings or structures," and provides that:

- A county or city cannot authorize, and no person may construct, the construction of a tall building or structure with a vertical height of more than 200 feet in any area surrounding a major military installation (area that extends five miles beyond the installation boundary), unless the county or city is (1) in receipt of either a letter of endorsement issued to the person by the Building Code Council, or (2) proof of the Council's failure to act within the time allowed by law.
- No utility services may be provided to any building or structure constructed in violation of the provisions of the Article (electricity, telephone, gas, water, sewer, or septic system).
- Wind energy facilities and wind energy facility expansions that are subject to permit requirements of Chapter 143 are exempt from obtaining the endorsement required by the Article.
- A person seeking to construct a tall building or structure in any area surrounding a major military installation must notify the installation of its intent and must obtain an endorsement from the Building Code Council. A person seeking an endorsement must provide the Council with the following:
 - Identification of the major military installation and the base commander of such installation that is located within five miles of the proposed construction of a tall building or structure.
 - A copy of the written notice to the commanders of the installation that is located within five miles of the proposed construction of a tall building or structure.



- A written statement from the base commander of the installation that includes:
 - A determination whether the location of the proposed construction of the tall building or structure is within a protected area that surrounds the installation.
 - A determination whether any activities of the installation may be adversely affected by the proposed construction of the tall building or structure.
- A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 Code of Federal Regulations (January 1, 2012 Edition) for the proposed construction of the tall building or structure.
- The Building Code Council may not endorse the construction of a tall building or structure if it finds any one of the following:
 - Construction of the proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State.
 - The Council did not receive a written "Determination of No Hazard to Air Navigation" issued to the applicant by the Federal Aviation Administration.
- The act provides procedures for a decision of endorsement by the Building Code Council upon receipt of all required information, including a deadline for the Council's decision (within 60 days). The act authorizes the Council to meet by telephone, video, or Internet conference to make a decision on a request for endorsement. If the Council fails to act within the time period provided, the person may treat the failure to act as a decision to endorse the construction.
- The Article applies to buildings existing on the effective date, i.e., no reconstruction, alteration or expansion without compliance with the Article.
- The Article allows for injunctive relief, as well as civil penalties assessed by the Commissioner of Insurance.

EFFECTIVE DATE: This act becomes effective October 1, 2013.

Hal Pell, counsel to the House Committee on Homeland Security, Military, and Veterans' Affairs, substantially contributed to this summary.